

### **REMARKS**

Claims 35-47 and 49-96 are pending and have been rejected. Claims 35, 47, 52-53, 62, 67, 85, and 88 have been amended. No claims have been added or canceled. No new matter has been added. Support for the claim amendments may be found throughout the specification and figures, for example, at page 29, line 13 – page 30, line 7 and Appendix 1.

Claim 35 has been objected for informalities in the listing of the claims in the previous response submitted on 7/15/2008. In particular, the listing of the claims in the previous response had claim 35 as being cancelled and amended and the remarks indicated claims 1-34 as being cancelled. Applicants have amended the listing of the claims in the present response to reflect that claims 1-34 have been cancelled. Accordingly, Applicants respectfully request withdrawal of the objection to claim 35.

Claim 88 has been objected to for informalities with respect to the phrase “to store manipulate data.” In particular, the Office Action suggests that the claim limitation “... to store manipulate data ...” should be “... to store manipulated data ...” Applicants have amended claim 88 to recite “... to store manipulated data ...” Accordingly, Applicants respectfully request withdrawal of the objection to claim 88.

Independent claims 35, 47, 85 and 88 and dependent claims 36-46, 49-66, 69-71, 74-82, 86, 91-92 and 95 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 7,444,353 (“Chen”) in view U.S. Patent No. 6,121,530 (“Sonoda”). Dependent claims 67-68, 72-73, 83-84, 87, 89-90, 93-94, and 96 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chen in view of Sonoda and U.S. Patent No. 6,578,008 (“Chacker”).

Independent claim 35 recites that a signal is directly received from a remote device where the signal includes a captured sample of a music broadcast. A characteristic of the captured sample is determined from the signal. The characteristic includes a landmark and a fingerprint associated with the landmark. Using the characteristic, the identity of the music in the captured sample is determined.

Neither Chen nor Sonoda disclose, teach, or suggest that a characteristic includes a landmark or a fingerprint associated with the landmark. In Chen, a music information delivery system includes a portable communication device that is configured to transmit a

piece of music and a host computer or server that is configured to receive and identify the piece of music (see Col. 2, ll. 33-42). The host computer or server identifies the piece of music using either a digitized sample of the piece of music, an individual audio signal of the piece of music such as a vocal signal or an instrument signal, or an embedded identification code in the piece of music (see Col. 16, ll. 5-29).

Furthermore, in Sonoda, a melody retrieval system receives a relative pitch and span of a song input by a user singing, humming, or whistling (see FIGs. 3-4; Col. 3, ll. 33-42; Col. 4, ll. 4-7). The melody retrieval system converts the received relative pitch and span into approximate relative-pitch and relative-span values that are used to identify the song (see FIGs. 3-4; Col. 4, ll. 8-20).

While Chen and Sonoda discloses that a characteristic of a piece of music or song is used to identify the piece of music or song, neither Chen nor Sonoda disclose that the characteristic includes a landmark and a fingerprint associated with the landmark. Rather, in Chen, the characteristic includes a digitized sample, an individual audio signal such as a vocal signal or instrument signal, or an embedded identification code, not a landmark or a fingerprint associated with the landmark. Furthermore, in Sonoda, the characteristic includes relative-pitch and relative-span values, not a landmark or a fingerprint associated with the landmark. Thus, neither Chen nor Sonoda disclose, teach, or suggest that a characteristic includes a landmark or a fingerprint associated with the landmark.

Based on at least the foregoing, Applicants respectfully submit that independent claim 35 patentably defines over the references as applied.

As independent claims 47, 85, and 88 recite similar, but not identical, features as independent claim 35, Applicants respectfully submit that independent claims 47, 85, and 88 patentably define over the references as applied. As claims 36-46 depend ultimately from independent claim 35, claims 49-84 ultimately depend from independent claim 47, claims 86-87 ultimately depend from independent claim 85, and 89-96 ultimately depend from independent 88, Applicants further respectfully submit that dependent claims 36-46, 49-84, 86-87, and 89-96 patentably define over the references as applied.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 35-47 and 49-96 under 35 U.S.C. § 103(a).

**DOCKET NO.:** LMRK-0013 (69323/P002US/10511081)

**PATENT**

**Application No.:** 09/671,571

**Office Action Dated:** November 28, 2008

**CONCLUSION**

In view of the foregoing, Applicants respectfully submit that the claims are allowable and that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact the undersigned attorney, Hilary A. Reinhardt at (215) 568-3100, to discuss the resolution of any remaining issues.

Respectfully submitted,

Date: May 28, 2009

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